

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SHAQUILLE KINGSLEY, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

FREDERICK KINGSLEY,

Respondent-Appellant,

and

AMY TAYLOR,

Respondent.

In the Matter of JAQUILLE KINGSLEY, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

FREDERICK KINGSLEY,

Respondent-Appellant,

and

AMY TAYLOR,

Respondent.

UNPUBLISHED

July 12, 2005

No. 259003

Kent Circuit Court

Family Division

LC No. 04-050420-NA

No. 259088

Kent Circuit Court

Family Division

LC No. 04-050421-NA

In the Matter of FREDERICK KINGSLEY, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

FREDERICK KINGSLEY,

Respondent-Appellant,

and

AMY TAYLOR,

Respondent.

No. 259089
Kent Circuit Court
Family Division
LC No. 04-050422-NA

Before: Cooper, P.J., and Fort Hood and R. S. Gribbs*, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the children under MCL 712A.19b(3)(a)(ii), (c)(i), and (g). We affirm.

The children came into the court's custody in February 2003, based on allegations that their mother had failed to properly care for and protect them. Respondent-appellant, the children's father, was incarcerated at the time of the adjudication hearing in April 2003 but informed the court that he was going to be released on parole in July 2003. The court ordered respondent-appellant to notify petitioner of his address upon his release. Respondent-appellant was released on parole on July 26, 2003, and incarcerated again on December 1, 2003, for violating his parole. Respondent-appellant did not notify petitioner of his whereabouts during the four months he was out of prison. He did, however, visit the children on two occasions in August 2003, contrary to court order. At the termination trial on June 30, 2004, respondent-appellant testified that he expected to be released again on parole shortly but his release was delayed because he wanted to be paroled in Illinois, where his family lived. The children were in the court's custody in Michigan.

The foregoing evidence established that the trial court did not clearly err in finding termination was appropriate under §§19b(3)(c)(i), and (g). MCR 3.977(G)(3); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The court incorrectly concluded that abandonment could

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

be established under § 19b(3)(a)(ii) solely on the ground that respondent-appellant did not seek custody of the children during the four-month period when he was out of prison and on parole. The trial court must also find that respondent-appellant deserted the children for 91 or more days. Although respondent-appellant contacted the children in August 2003 when he was on parole, the court could have relied on the fact that respondent-appellant did not make any substantial effort to communicate with his children, or obtain assistance in regaining custody of them, prior to the termination trial for more than the statutory 91-day period necessary to establish abandonment under § 19b(3)(a)(ii). See *In re TM*, 245 Mich App 181, 194; 628 NW2d 570 (2001). This Court will not reverse the trial court's decision if the right result is reached for the wrong reason. *In re Powers*, 208 Mich App 582, 591; 528 NW2d 799 (1995).

Further, the evidence failed to show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Jessica R. Cooper
/s/ Karen M. Fort Hood
/s/ Roman S. Gribbs